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C O N F I D E N T I A L SECTION 01 OF 04 PHNOM PENH 000399

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TAGS: [PGOV](#) [KDEM](#) [PHUM](#) [PREL](#) [KJUS](#) [CB](#)

SUBJECT: HOR NAMHONG, SAM RAINSY SEEK EMBASSY INTERCESSION
TO FIND COMPROMISE ON LAW SUIT AND AVOID ELECTION CRISIS

Classified By: POL/EC CHIEF GREG LAWLESS FOR REASONS 1.4 (B,D)

¶1. (C) SUMMARY: Foreign Minister Hor Namhong summoned the Ambassador on May 8 for a one-on-one meeting to explain to the Ambassador his defamation and disinformation cases against Sam Rainsy regarding Rainsy's assertion that Hor Namhong was a former Khmer Rouge prison camp chief. The aged and increasingly sclerotic Foreign Minister, saying he realized the negative impact of a law suit in the run-up to national elections, requested that the Ambassador speak to Rainsy to seek a compromise short of the lawsuit he said he had reluctantly filed to defend his honor. In a series of meetings on May 12, the two sides displayed to Ambassador some mutual rancor but also possible agreement on a way forward: Hor Namhong would drop the criminal disinformation charge, both sides would cease their war of words in the press, and the civil defamation suit would proceed through the courts. Rainsy confided that if he could not win a civil defamation suit on the merits, he promised to pay the fine, but stood by his general assertion that Hor Namhong had once acted like a Nazi concentration camp "kapo". Rainsy is taking risks with his high-visibility slur campaign (without much evidence) but is characteristically brazen in reminding voters of the ruling Cambodian Peoples Party's ties to the Khmer Rouge (KR) while undermining the CPP election platform plank that the CPP liberated the country from the KR. With Rainsy's assertion that he will have his lawyer talk to Hor Namhong's lawyer about a compromise, the Embassy is moving to the sidelines to watch as this game plays out. END SUMMARY.

Hor Namhong Paints Himself as a Victim

¶2. (SBU) In apparent reaction to public remarks by the Ambassador expressing concern about the possible damaging effect on elections of the defamation and disinformation law suits filed by Hor Namhong against Sam Rainsy on April 22, the Minister of Foreign Affairs told the local press May 7 that he regretted having to file the case but saw no other way to defend his honor. While saying he would leave it to the courts to rule on the two charges, he noted especially a recent Radio Free Asia interview that repeated the charges against Hor Namhong and indicated this was proof of Sam Rainsy's intentional spreading of disinformation. Responding to the Foreign Minister's request for a meeting on an unstated topic, the Ambassador May 8 walked into Hor Namhong's otherwise empty office, where the Foreign Minister sat alone, with no note takers.

¶3. (C) For the next 30 minutes Hor Namhong recited an impassioned, almost tearful soliloquy on his travails as an inmate in the Khmer Rouge Boeung Trabek re-education camp located in Phnom Penh's suburbs. Hor Namhong asserted that he was not a camp director, but eventually became head of a committee of prisoners in one of three adjacent camps. He stated that he worked alongside other prisoners in fields, often applying human excrement to the crops, acquiring a

smell that none of the prisoners could wash away. Noting that both of his predecessors had been taken away and executed, he claimed to have evidence that he, too, was on a Khmer Rouge black list of victims to be executed. He cited evidence collected by his son at the S-21 torture prison after the KR era that one of his predecessors had named him as a CIA collaborator (NOTE: a charge that quite frequently led to imprisonment, torture and execution by the paranoid Khmer Rouge).

14. (C) As for allegations that he caused the removal, disappearance, or execution of fellow inmates, Hor Namhong said that he lost more than 30 members of his extended family during the KR era. One of his sisters held in a camp adjacent to his was eventually executed, he said, although he did not learn of her fate until the 1980s. He claimed that one senior KR official now being detained by the Khmer Rouge Tribunal knew about his being listed for eventual execution. Hor Namhong's lawyer states he has requested the testimony of S-21 torture prison director Duch.

Regret at Filing Case; Indications of Compromise

15. (C) The Ambassador said that a civil defamation suit was one thing, but a criminal disinformation suit with possible jail time would have negative effects on the political atmosphere and the upcoming parliamentary election and he urged the Foreign Minister to drop that case. While he had to defend his reputation, Hor Namhong said that he deeply regretted bringing the case against Sam Rainsy. He knew that it could affect the election climate, but felt that Sam

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Rainsy kept spreading the disinformation again and again, including during Rainsy's recent ten-day trip in Canada and the U.S. This was spreading disinformation with the intent to destroy Hor Namhong's honor, he bitterly noted. Hor Namhong said that he had won a defamation suit against then Prince Sihanouk in France in 1992 related to similar accusations. Among the three witnesses called by Sihanouk's lawyers they all agreed that Hor Namhong had worked alongside other prisoners, had been appointed by the KR to perform as a committee head, and that other KR cadres controlled the camp, he recounted. He recalled that in addition to the Boeung Trabek camp head, a Khmer Rouge leader known as Sovann, there were three KR cadres who came every day to supervise the camp and thus he had no power as prisoner committee head.

16. (C) Hor Namhong asked the Ambassador to speak to Sam Rainsy and handed over segments of an English translation of a recent Khmer press interview he gave. The excerpts included closing remarks by Hor Namhong that he would be willing to drop the case if Sam Rainsy publicly apologized. The Ambassador agreed to Hor Namhong's request, and closed by again urging the foreign minister to drop the criminal case.

Sam Rainsy Adamant

17. (C) The Ambassador May 12 relayed to Sam Rainsy the gist of Hor Namhong's appeal, indicating that it appeared Hor Namhong was still open to some form of compromise. He asked Rainsy what he thought about striking a compromise in this case. The Ambassador noted that the issue arose at a time when he was about to depart the country and was worried there was little the Embassy could do if this should develop into a more serious case. The Ambassador condemned the criminal disinformation law and told Rainsy he had asked Hor Namhong to drop the criminal case. Noting Cambodia's was not a defamation law that Americans would support, the Ambassador commented that it was nonetheless not inconsistent with other democracies' defamation laws (such as in France or Japan). The Ambassador also indicated that there appeared to be little evidence to support Rainsy in the civil defamation case.

¶8. (C) In the 30-minute, private meeting with the Ambassador, Sam Rainsy adamantly defended his allegations against Hor Namhong, claiming - but not supporting with evidence - his allegations that Hor Namhong was: (1) a true Khmer Rouge prison camp "chief" with the power to finger inmates for removal from the camp (and eventual execution); (2) the KR camp leader who alone presided over daily self-criticism sessions where - Sam Rainsy believed - he did indeed criticize prisoners who disappeared soon thereafter; and (3) an inmate with special privileges which Hor Namhong also secured for his wife (head of camp women) and son (head of camp youth). He compared Hor Namhong to a "kapo" in a WW II Nazi concentration camp. Kapo's were privileged inmates serving administrative roles and could be brutal toward other prisoners, he recited. Like a kapo, when Hor Namhong pointed his finger at inmates, they later disappeared. Kapo's were eventually replaced as new batches of inmates came in, Rainsy said, conceding the point that Hor Namhong might eventually have been executed, but noting that only confirmed his role as a KR collaborator. He alluded to other sources - former inmates - who might back up this assertion, but was not specific. A 2001 Phnom Post interview with the late FUNCINPEC Senator Keo Bun Thouk was one source. (NOTE: Rainsy apparently began seeking this evidence in earnest only after Hor Namhong had filed his cases against him. END NOTE.)

¶9. (C) Rainsy expressed his strong belief that Hor Namhong was more than the ordinary prisoner committee head he claimed to be. He indicated he had not defamed Hor Namhong, but later conceded that he could not win a civil case concerning defamation in a Cambodian court.

¶10. (C) Rainsy was also strident on the criminal charge of spreading disinformation, noting that this UNTAC era law came about at a time when the UN "had to be tough" because the Khmer Rouge had abandoned the truce and was bearing arms against the UN's effort to bring democracy to Cambodia. But that was a different era, and in this time of peace and stability, given the original spirit and intent of the UNTAC law, such a law was no longer necessary, he said emphatically.

What did Sam Rainsy Say or Do?

¶11. (C) As he has done in a number of public interviews

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since his April 17 remarks about Hor Namhong, Rainsy first tried to tell the Ambassador that he did not implicate the "current" foreign minister, but just referred to one foreign minister among many serving since the KR era. (NOTE: In fact, Rainsy referred to the current deputy prime minister and foreign minister and alleged in front of a crowd of hundreds that, as a KR prison camp chief, Hor Namhong had made people disappear. END NOTE.) Rainsy also tried to say that he was not spreading disinformation in the proper sense of that term, since the "information" must be of some sensitive or confidential nature.

Was Hor Namhong Chief of KR Boeung Trabek Prison Camp?

¶12. (C) Telling the Ambassador what he later told the local press on May 12, Rainsy tried to tick off a number of points in his favor, saying he had read the complete S-21 prison confession of Van Peany which named Hor Namhong as a CIA collaborator. Hor Namhong succeeded Van Peany and Van Peany is described as the "chief" of the camp in those KR documents. Thus, Rainsy concluded, Hor Namhong must have been the camp "chief" also. Rainsy also recounted an elaborate story about only those with five counts of "CIA collaborator" against them being sent to S-21; thus, Hor Namhong still had four to go.

¶13. (C) Relying heavily on a feature article from The Cambodia Daily published on July 1, 2000, he cited sources who said Hor Namhong was a "chief" at the camp. (NOTE: The same article cites other sources clearly stating Hor Namhong was a middle man under KR cadres. END NOTE.) Rainsy insisted that Princess Sisowath Ayravady had implicated Hor Namhong in disappearances. However, in the article Rainsy cites, the Princess notes only that Hor Namhong was an "ambiguous" person whose role as potential collaborator could not be known. (COMMENT: Current sources in the Khmer Rouge Tribunal have a similar view of Rainsy's allegations - that Rainsy's black-and-white accusation is based on a grey situation about which there is little or no evidence. END COMMENT.)

A Rainsy Concession

¶14. (C) Rainsy told the Ambassador he was still not certain he would answer the first summons to appear and give testimony at the Phnom Penh Municipal court on May 22. (NOTE: He expects to depart for France on May 13 and returns on May 21. END NOTE.) Rainsy later told the local press that he would not make an appearance at the court. Nonetheless, he told the Ambassador, he was willing to concede that he might lose the civil defamation case on the merits, and promised in that case to pay any fine levied without creating a crisis about criminal penalties if he did not pay the civil fine. He would thus allow the courts to uphold Hor Namhong's honor but only if the criminal disinformation suit was dropped against him.

Hor Namhong: Rainsy's Lawyer Should Call my Lawyer

¶15. (C) In a meeting with Hor Namhong late in the day on May 12, the Ambassador relayed Rainsy's message, noting again the bad effect this case was having on the election climate and particularly stressing that the criminal disinformation suit was objectionable and that in the United States all public officials were subject to almost any characterization.

¶16. (C) Hor Namhong commented that Rainsy was stubborn, but said that if Rainsy's lawyer called his lawyer, he would consider dropping the criminal case. He noted further with some disappointment that the pro-SRP press continued to publish the allegations. (He did not note the pro-CPP press was also publishing more accounts in Hor Namhong's favor, including an interview that day with MFA Secretary of State Long Visalo who was also at Boeung Trabek.)

¶17. (C) In a follow up call to relay this information, Rainsy told the Ambassador that he would sign a letter that evening to assign a lawyer to the case and that he hoped the two sides could meet by the end of the week. In the meantime, Rainsy also agreed that the two sides should try avoid raising the issue in the press and that their negotiations should be discreet. (NOTE: This conversation took place after Rainsy held a very blunt press conference implicating Hor Namhong's family as KR collaborators. END NOTE.)

Comment

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¶18. (C) Sam Rainsy finds himself embroiled in another headline-grabbing defamation brouhaha that pokes the CPP in the eye and raises issues of freedom of speech and fair comment about a public figure. However, it is unclear in this case what Rainsy's objectives are for his party or the electorate. At the same time, our legal sources indicate that his civil case does not appear to be strong. Furthermore, if the criminal case is not dropped, Rainsy

could force a constitutional crisis over his parliamentary immunity. Reaching a compromise soon would help set the stage for more smoothly run elections.

¶19. (C) If the lawyers cannot work out a solution to drop the criminal disinformation charges soon, the pall these charges will cast over the elections cannot be ignored.
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